



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
TENNESSEE REAL ESTATE COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
615-741-2273
<http://www.tn.gov/commerce/section/real-estate-commission>

MINUTES

The Tennessee Real Estate Commission held a meeting October 6, 2016 at 9:00 a.m. in Farragut, Tennessee.

The Meeting was called to order by Chairman, Griess.

Griess, Board Chairman welcomed everyone to the Board meeting.

Mr. Young, Executive Director called roll. The following Commission Members were present: Chairman John Griess, Commissioner Diane Hills, Commissioner Marcia Franks, Commissioner Fontaine Taylor, Commissioner Gary Blume, Commissioner Rick Douglass, Commissioner Johnny Horne, and Commissioner Bobby Wood. Vice Chairman Commissioner Austin McMullen was absent. Others present: Executive Director Malcolm Young, Assistant General Counsel Mallorie Kerby, Education Director Ross White and Commission Staff Brooke Chartrand.

AGENDA- Motion made by Commissioner Franks and seconded by Commissioner Wood to approve the agenda. Motion carried unanimously.

MINUTES-

Minutes for the September 7, 2016 board meeting were submitted for changes and/or approval.

Motion made by Commissioner Franks and seconded by Commissioner Hills to approve the September 7, 2016 minutes. Motion carried unanimously.

PUBLIC APPEARANCES-

Carla Torkelson- Addressed Commission regarding advertising rule. Some comments/suggestions that she made were: agents using internet, social media, or listing platforms are not able to monitor what the third party publishes in terms of firm name or firm phone number. Additionally, the definition of prominent is ambiguous; she would suggest clearly defining the rule to state what fonts and size can/should be used.

Mr. Ford- Addressed Commission regarding advertising rule. Some comments/suggestions that he made were: more clearly defining the advertising rules to be more specific.

Mr. Hensley- Addressed Commission regarding advertising rule. Some comments/suggestions that he made were: agents and principal brokers need to be fined on a consistent basis. Additionally, advertising rules need to be enforced on a more regular basis.

Ed Matthews: Addressed Commission regarding advertising rule. Some comments/suggestions that he made were: requesting clarity regarding if the franchise and DBA name needing to be the same size, or which should be more prominent and larger than agent.

Ken Ledbetter- Addressed Commission regarding advertising rule. Some comments/suggestions that he made were: Requesting that the phrase, "Each office independently owned and operated" be removed from the necessary advertising rules.

Patricia Shepherd: Addressed Commission regarding advertising rule. Some comments/suggestions that she made were: requesting the Commission review the rule regarding the company name is more defined on signage.

INFORMAL APPEARANCES-

Application for Affiliate Broker licensure; Kevin Skarpness

Motion made by Commissioner Franks and seconded by Commissioner Wood to approve applicant for licensure process. Motion carried unanimously.

Application for Affiliate Broker licensure; Melissa Johnson

Motion made by Commissioner Franks and seconded by Commissioner Wood to approve applicant for licensure process. Motion carried unanimously.

Application for Affiliate Broker licensure; William Soller

Motion made by Commissioner Blume and seconded by Commissioner Wood to approve applicant for licensure process, contingent upon receiving further documentation. Motion carried unanimously.

LEGAL REPORT- Staff Attorney

1. 2016028331

Opened: 4/19/16

First Licensed: 6/12/02

Expiration: 2/18/18

Type of License: Affiliate Broker

History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Taylor. Motion passes unanimously

2. 2016021371

Opened: 4/14/16

First Licensed: 6/11/90

Expiration: 10/21/16

Type of License: Principal Broker

History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Taylor. Motion passes unanimously

3. 20150224441

Opened: 12/9/15

First Licensed: 7/21/11

Expiration: 7/20/17

Type of License: Real Estate Firm

History: No prior disciplinary action.

Recommendation: Dismiss.

DECISION: The Commission voted to accept the recommendation of legal counsel. Unanimously accepted.

Recommendation: Consent order for 2 violations of \$500 each for violation of T.C.A. 62-13-403(1)(reasonable skill and care) for failing to have the tenant sign the lease addendum and failing to provide cashflow reports to Complainant, \$100 for violation of the same statute for failing to put a termination date in the first property management agreement, and \$100 for

violation of T.C.A. 62-13-403(4)(honesty and good faith) for charging Complainant a management fee when the property was vacant for a total of \$1200.

Decision: The Commission voted to accept the recommendation of legal counsel with the addition of 8 hours of CE in contracts to be completed within 180 days of execution of the consent order above and beyond the minimum required for license renewal. Motion made by Commissioner Franks seconded by Commissioner Hills. Motion passes unanimously

4. 2016019401
Opened: 4/5/16
First Licensed: 11/28/00
Expiration: 12/13/17
Type of License: Principal Broker
History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Wood. Motion passes unanimously

5. 2016019402
Opened: 4/5/16
First Licensed: 10/28/13
Expiration: 10/27/17
Type of License: Affiliate Broker
History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Taylor. Motion passes unanimously

6. 2016036951
Opened: 4/5/16
First Licensed: 9/7/73
Expiration: 5/7/18
Type of License: Affiliate Broker
History: No Prior Disciplinary

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Wood seconded by Commissioner Taylor. Motion passes unanimously

7. 2016036991

Opened: 4/5/16
First Licensed: 10/19/01
Expiration: 4/13/17
Type of License: Principal Broker
History: June 2014 Consent Order Earnest money dispute \$500 civil penalty

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Taylor. Motion passes unanimously

8. 2016021291

Opened: 4/14/16
First Licensed: 3/8/07
Expiration: 3/7/17
Type of License: Principal Broker History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Taylor. Motion passes unanimously

9. 2016027781

Opened: 3/21/16
First Licensed: 4/8/14
Expiration: 4/7/18
Type of License: Principal Broker
History: August 2016 Consent Order \$4000 Civil Penalty for an agency or sub-agency shall not be assumed, implied or created without a written bilateral agreement that establishes the terms and conditions...) & reasonable skill and care, all trust money received and held which relates to the lease of property must be held in one or more separate escrow or trustee accounts commingling of funds contained within firm accounts is expressly prohibited

Recommendation: \$500 for violation of T.C.A 62-13-313(a)(2)(failure to respond).

Decision: The Commission voted to propose a consent order for \$1000 for violation of T.C.A 62-13-313(a)(2)(failure to respond) plus attend the new Principal Broker CORE course within 180 days of execution of the consent order. Motion made by Commissioner Hills seconded by Commissioner Taylor. Motion passes unanimously

10. 2016020881

Opened: 4/12/16
First Licensed: 4/8/14
Expiration: 4/7/18
Type of License: Principal Broker

History: August 2016 Consent Order \$4000 Civil Penalty for an agency or sub-agency shall not be assumed, implied or created without a written bilateral agreement that establishes the terms and conditions..., reasonable skill and care, all trust money received and held which relates to the lease of property must be held in one or more separate escrow or trustee accounts, and commingling of funds contained within firm accounts is expressly prohibited

Recommendation: Dismiss

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Franks. Motion passes unanimously

11. 2016020871

Opened: 4/12/16

First Licensed: 4/8/14

Expiration: 4/7/18

Type of License: Principal Broker

History: August 2016 Consent Order \$4000 Civil Penalty for an agency or sub-agency shall not be assumed, implied or created without a written bilateral agreement that establishes the terms and conditions..., reasonable skill and care, all trust money received and held which relates to the lease of property must be held in one or more separate escrow or trustee accounts, and commingling of funds contained within firm accounts is expressly prohibited

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Franks. Motion passes unanimously

12. 2016020851

Opened: 4/12/16

First Licensed: 6/5/08

Expiration: 6/4/18

Type of License: Affiliate Broker History: June 2008 Consent Order \$3,000 Civil Penalty December 2013 Consent Order \$3,000 Civil Penalty w 6 hrs CE in contract writing and 4 hrs in ethics and TREC attendance for using or promoting the use of any real estate listing agreement form, real estate sales contract form or offer to purchase real estate form that fails to specify a definite termination date in and failing to diligently exercise reasonable skill and care in providing services to all parties to the transaction and failing to be loyal to the interests of the client in violation

Recommendation: Dismiss and refer to the Department of Financial Institutions.

Decision: The Commission voted to accept the recommendation of legal counsel and also request that the Department of Financial Institutions report its findings/decision. Motion made by Commissioner Hills seconded by Commissioner Taylor. Motion passes 7-1, Commissioner Blume against.

13. 2016020901

Opened: 4/12/16

First Licensed: 2/15/06

Expiration: 2/14/18

Type of License: Affiliate Broker History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Wood seconded by Commissioner Taylor. Motion passes unanimously

14. 2016020401

Opened: 4/9/16

First Licensed: 12/23/87

Expiration: 5/31/17

Type of License: Principal Broker History: June 2006 Letter of Caution/Warning

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Wood. Motion passes unanimously

15. 2016019361

Opened: 4/5/16

First Licensed: 6/18/98

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Type of License: Retired Broker

History: No Prior Disciplinary Action

Recommendation: \$250 each for 8 violations of T.C.A. § 62-13-301(unlicensed activity) for 8 different properties as evidenced by 3 leases, 1 collection of rent, 1 rental history verification, 2 notices to vacate and 1 letter of notice to terminate the lease and \$250 each for 4 violations of the same statute for the four craigslist advertisements for a total of \$3000.

Decision: The Commission voted to propose a consent order for \$500 each for 8 violations of T.C.A. § 62-13-301(unlicensed activity) for 8 different properties as evidenced by 3 leases, 1 collection of rent, 1 rental history verification, 2 notices to vacate and 1 letter of notice to terminate the lease and \$250 each for 4 violations of the same statute for the four craigslist advertisements for a total of \$5000. Motion made by Commissioner Blume seconded by Commissioner Hills. Motion passes unanimously

16. 201602081

Opened: 4/12/16

First Licensed: 9/3/96
Expiration: 3/31/17
Type of License: Real Estate Firm History: No Prior Disciplinary Action

Recommendation: \$250 for violation of T.C.A. § 62-13-403(1)(failure to exercise reasonable skill and care in providing services to all parties to the transaction).

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Horne. Motion passes unanimously

17. 2016033441
Opened: 4/21/16
First Licensed: 8/13/13
Expiration: 8/12/17
Type of License: Affiliate Broker History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Wood. Motion passes unanimously

18. 2016033511
Opened: 4/21/16
First Licensed: 7/25/07
Expiration: 8/20/17
Type of License: Principal Broker History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Wood. Motion passes unanimously

19. 2016035891
Opened: 4/21/16
First Licensed: 6/30/95
Expiration: 2/11/17
Type of License: Real Estate Firm History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Wood. Motion passes unanimously

20. 2016028651
Opened: 4/21/16
First Licensed: 10/19/04
Expiration: 6/8/18

Type of License: Affiliate Broker History: No Prior Disciplinary Action

Recommendation: If Respondent's explanation of the HUD bidding process is correct, there appears to be no violation. Legal Counsel defers to the Commission's industry expertise.

Decision: The Commission voted to dismiss the complaint. Motion made by Commissioner Franks seconded by Commissioner Hills. Motion passes unanimously

21. 2016033641

Opened: 4/25/16

First Licensed: 4/19/10

Expiration: 4/18/18

Type of License: Affiliate Broker History: No Prior Disciplinary Action

Recommendation: Dismiss

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Taylor. Motion passes unanimously

22. 2016033731

Opened: 4/26/16

First Licensed: 8/10/87

Expiration: 2/15/17

Type of License: Principal Broker History: April 2016-Consent Order \$1,000 Failure to Supervise

Open complaint July 2016- 2016043491 has not been reviewed (FTS) Open complaint September 2016- 201604732 has not been reviewed (FTS)

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Wood. Motion passes unanimously

23. 2016033751

Opened: 4/25/16

First Licensed: 5/10/06

Expiration: 5/9/18

Type of License: Affiliate Broker History: January 2011- Consent Order \$1,000 Failure to account for trust fund-deposits

Recommendation: Legal Counsel defers to the Commission as to whether or not this action constitutes a failure to be loyal to the interests of the client, failure to exercise reasonable skill and care, or no violation. Legal counsel recommends reviewing the Principal Broker's response below prior to making a determination.

Decision: The Commission voted to dismiss the complaint. Motion made by Commissioner Blume seconded by Commissioner Hills. Motion passes unanimously

24. 2016033771

Opened: 4/25/16
First Licensed: 8/11/87
Expiration: 10/10/18
Type of License: Principal Broker History: No Prior Disciplinary Action

Recommendation: Legal Counsel defers to the Commission as to whether or not this action constitutes a failure to supervise the affiliate broker above.

Decision: The Commission voted to dismiss the complaint. Motion made by Commissioner Blume seconded by Commissioner Hills. Motion passes unanimously

25. 2016022841
Opened: 4/26/16
First Licensed: 10/31/07
Expiration: 1/27/17
Type of License: Principal Broker History: 201602086-Received August 2016

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Franks. Motion passes unanimously

26. 2016035821
Opened: 6/27/16
First Licensed: 2/20/15
Expiration: 2/19/17
Type of License: Affiliate Broker History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Franks. Motion passes unanimously

27. 2016035931
Opened: 3/23/16
First Licensed: 6/14/99
Expiration: 9/11/16
Type of License: Principal Broker History: No Prior Disciplinary Action

Recommendation: Dismiss

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Franks. Motion passes unanimously

28. 2016033791
Opened: 4/26/16
First Licensed: 1/20/06
Expiration: 1/27/18

Type of License: Principal Broker History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Hills seconded by Commissioner Franks. Motion passes unanimously

29. 2016020211

Opened: 4/08/16

First Licensed: 10/05/09

Expiration: 10/10/17

Type of License: Principal Broker History: 2016041351 under review

2016020191

Opened: 4/8/16

First Licensed: 1/28/15

Expiration: 1/27/17

Type of License: Affiliate Broker History: No Prior History.

29.016020192

Opened: 4/8/16

First Licensed: 4/23/14

Expiration: 4/22/18

Type of License: Affiliate Broker History: No Prior History

Recommendation: Consent order for \$100 for violation of Rule 1260-02-.12(3)(b)(1)(firm name must be the most prominent name in the advertising).

Decision: The Commission voted to accept the recommendation of legal counsel.

Recommendation: Dismiss.

Decision: The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Taylor seconded by Commissioner Horne. Motion passes unanimously

30. 2016043051

Opened: 5/5/16

First Licensed: 3/24/08

Expiration: 3/23/17

Type of License: Timeshare Registration History: 2016046711, 2016046881, 2016044671, 2016043401, 2016043071, 2016038561 under review

Recommendation: Close and refer Complainant to the Florida Real Estate Commission.

Decision The Commission voted to accept the recommendation of legal counsel. Motion made by Commissioner Franks seconded by Commissioner Taylor. Motion passes unanimously

31. 2016026051

Opened: 5/12/16

First Licensed: 11/12/10

Expiration: 11/11/16

Type of License: Affiliate Broker History: No Prior Disciplinary Action

The Commission requested that a complaint be opened against the Respondent (buyer's agent) and Principal Broker in complaint number 2015022515 which was presented in May of 2016.

DECISION: The Commission authorized a civil penalty in the amount of \$1,000 for violation of Rule 1250-02.08 (brokers and affiliate brokers shall make certain that all of the terms and conditions of the real estate transaction are included in the contract to purchase) plus attendance and successful completion of eight (8) hours of continuing education in contracts within one hundred eighty (180) days of Respondent's execution of Consent Order.

Recommendation: \$250 violation for violation of T.C.A. § 62-13-313(a)(2)(failure to respond) - Legal Counsel defers to the Commission for any additional violations/civil penalties.

Decision: The Commission voted to propose a civil penalty in the amount of \$1,000 for violation of Rule 1250-02.08 (brokers and affiliate brokers shall make certain that all of the terms and conditions of the real estate transaction are included in the contract to purchase), \$1000 for violation of T.C.A. § 62-13-313(a)(2)(failure to respond), plus attendance and successful completion of eight (8) hours of continuing education in contracts within one hundred eighty (180) days of Respondent's execution of Consent Order above and beyond the minimum requirement for license renewal. Motion made by Commissioner Taylor seconded by Commissioner Hills. Motion passes unanimously

32. 2016026151

Opened: 5/12/16

First Licensed: 6/3/09

Expiration: 6/2/17

Type of License: Real Estate Broker History: 2014029911 Agreed Order \$2,200 Civil Penalty for Failure to Supervise and Advertising

Recommendation: \$250 violation for violation of T.C.A. § 62-13-313(a)(2)(failure to respond) - Legal Counsel defers to the Commission for any additional violations/civil penalties.

Decision: The Commission voted to propose a consent order for \$1000 for violation of T.C.A. § 62-13-313(a)(2)(failure to respond), \$500 for violation of T.C.A. § 62-13-312(b)(15)(failure to supervise), plus attendance and successful completion of eight (8) hours of continuing education in contracts within one hundred eighty (180) days of Respondent's execution of Consent Order above and beyond the minimum requirement for license renewal. Motion made by Commissioner Taylor seconded by Commissioner Hills. Motion passes unanimously.

EDUCATION REPORT-

Motion made by Commissioner Wood to approve courses S1-S17 motion seconded by Commissioner Hills. Motion carried unanimously.

Motion made by Commissioner Wood to approve instructors S1-S17 and seconded by Commissioner Hills. Motion carried unanimously.

COMMISSION DISCUSSION-

The Executive Director, Malcolm Young, read into the record the following regarding staff attorney, Mallorie Kerby, “The Tennessee Real Estate Commission would like to commend Mallorie Kerby for her outstanding service as legal counsel. In my 30+ years in real estate I have had the privilege of working with outstanding attorney’s, working with Mallorie provided me with a higher benchmark for attorneys. In short words I describe her as one of excellence, hard work ethic, and dedication to the presentation of real estate and protection to the consumer. Mallorie, on behalf of TREC I thank you for your service, knowledge, dedication and care in protecting our Commissioners in their duties. We are very proud of you and know you will do a wonderful job going forward in your career.”

The Tennessee Association of Realtors made a request to reevaluate the advertising rules. The Commission is still holding an open discussion regarding what rules are pertinent to consumer protection.

Chairman John Griess nominated Janet DiChiara for the Bill Tune Award.

Commissioner Bobby Wood requested the Executive Director and Legal Department to review the statute of limitations in regards to the Tennessee Real Estate Commission’s internal informal applicant process. Commissioner Wood would like to discuss this policy in depth at the November Commission meeting.

EXECUTIVE DIRECTORS REPORT-

Review of Financial and Statistical Reports

Meeting adjourned by Chairman John Griess at 5:01 pm.



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The Tennessee Real Estate Commission held a formal hearing October 7, 2016 at 9:00a.m. in Farragut, Tennessee.

The meeting was called to order by Chairman Marcia Franks.

The following Commission Members were present: Commissioner John Griess, Commissioner Diane Hills, Commissioner Franks, Commissioner Bobby Wood, Commissioner Rick Douglass, Commissioner Fontaine Taylor, Commissioner Gary Blume, and Commissioner Johnny Horne. Commissioner Austin McMullen was absent. Others present: Executive Director Malcolm Young, Assistant General Counsel Mallorie Kerby, and Commission Staff Brooke Chartrand.

Formal Hearing

12:00 P.M. EST Call to Order

TREC v. Blythe Sanders

A formal hearing was held before the Commission with an Administrative Law Judge presiding. The Commission considered all testimony and evidence presented.

Decision: TREC v. Blythe Sanders

1. Respondent's Tennessee Real Estate Broker License Number 291243 shall be immediately **SUSPENDED FOR A PERIOD OF 9 Months, beginning October 6, 2016. Respondent shall be given credit for the 4 Months and 6 days Summary Suspension previously imposed by the Board on June 1, 2016. The Suspension will terminate on February 28, 2017.**

2. Respondent is assessed all costs associated with bringing this action, to the extent they are applicable, including investigative and hearing costs. **Respondent shall not be responsible; however, for the Administrative Law Judge's time from 9 a.m. until 12:00 p.m.**

Motion by Commissioner Wood Seconded by Commissioner Taylor. Motion carries 4-3 with Commissioner Douglass, Commissioner Horne and Commissioner Blume against. Commissioner John Griess recused himself from the hearing.

Hearing adjourned by Chairman Marcia Franks at 2:15 pm.